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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,609	10/09/2001	Shlomo Gabbay	SHEP5010US	8158

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TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.
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EXAMINER

PELLEGRINO, BRIAN E

ART UNIT	PAPER NUMBER
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3738

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02/25/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
09973609	10/9/01	GABBAY, SHLOMO	SHEP5010US

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Commissioner for Patents

The reply brief filed 12/10/07 has been considered and entered. Applicant argues that the dimensions are not proven to be evident by the prior art. The Examiner attempted to provide some logical reason, that it appears was not clear. Since the coaxial components have a dimension for one component that falls within the claimed range, it is common sense that the other coaxial components would have similar dimensions. They clearly would not be greatly different since the catheter is used in a small diameter location, that is the blood vessels. Second Applicant argues, the modification is not obvious, and uses hindsight. Clearly one of ordinary skill in the surgical art has the knowledge to perform a surgery and understands the complications or obstacles at the surgical site where the device is used. There are often difficult locations that involve far reaching delivery of surgical instruments that only permit small or narrow elements to be positioned therein. To place the cylindrical member end at a distance only involves routine skill in the art, see KSR. Thus, in response to Applicant's remarks that there is no teaching in the reference to modify the feature (placement of body stabilizing portion) at a distance from the end, it should be noted that Ex parte Smith 83 USPQ2d 1509 states the KSR decision explains why no teaching is required to support a finding of obviousness. For example the movement or relocation of a known features is obvious when it does nothing more than produce predictable results. The application has been forwarded to the Board of Patent Appeals and Interferences for decision on the appeal.

/Brian E Pellegrino/
Primary Examiner, Art Unit 3738